May 23, 2003

MEMORANDUM OF UNDERSTANDING ON ESTABLISHMENT OF UNGULATE WINTER RANGES AND RELATED OBJECTIVES

A. PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to expedite and facilitate the orderly confirmation and establishment of ungulate winter ranges (UWR) and related objectives across the province, in order to support the Forest and Range Practices Act (FRPA). This MOU clarifies general ministry roles and responsibilities and outlines procedures and considerations to facilitate timely delivery of this initiative. It replaces previous agreements concerning coordination, administrative processes, and consultation requirements. The intent is to facilitate, through due process, the cooperative development of objectives to support the FRPA while at the same time maintaining the foundation of stakeholder support, where UWR and objectives have been established through Cabinet-approved strategic land use planning processes.

A Procedures Manual for Establishing Ungulate Winter Ranges and Objectives, MWLAP 2003, will be distributed shortly by MWLAP and will provide guidelines on procedures that will be followed when establishing UWR in British Columbia. This manual will also describe the analysis and consultation requirements for UWR proposals, and guidance for the development of legal objectives.

B. GENERAL MINISTRY ROLES AND RESPONSIBILITIES WITHIN THE CONTEXT OF SERVICE PLANS

The Ministry of Water, Land and Air Protection (MWLAP), the Ministry of Forests (MOF), and the Ministry of Sustainable Resource Management (MSRM) all have agency responsibilities with respect to establishing UWR and objectives. Approved ministry service plans provide guidance & direction to the development and implementation of this MOU.

Ministry of Water, Land and Air Protection (MWLAP)
Currently, objectives for UWR are established under Operational Site Planning Regulation (OSPR) s.69. Pursuant to the OSPR (December 2002) the MWLAP Deputy Minister may establish UWR and objectives, through written orders.

Under the Forest and Range Practices Act (FRPA), objectives for UWR will be required to provide guidance to forest stewardship plans (FSPs), range use plans (RUPs), range stewardship plans (RSPs), and other operational plans; and to provide the foundation for monitoring and adaptive management. Under the FRPA, the authority to establish UWR and objectives within current limits i.e. parameters reflected in TSR1 and 2, and land use plan direction) will continue to be granted through regulation to the MWLAP Deputy Minister.

Ministry of Forests (MOF)
Under the FRPA, MOF will hold the authority for approval of FSPs, RUPs, RSPs, and other operational plans. These operational plans will be required to be consistent with objectives set by government, including those for UWR. An FSP, RSP, or other operational plan will be required before timber harvesting, road construction, or livestock grazing can occur on Crown land, unless otherwise prescribed or exempted in legislation.

MOF responsibilities also include assessing timber supply, forage supply for livestock, and operational implications (e.g., costs and access to timber and forage for livestock) of UWR proposals.

Ministry of Sustainable Resource Management (MSRM)
MSRM is responsible for balanced, integrated land use decisions that enhance economic development through timely and certain access to land and resources. Currently MSRM has the sole statutory authority under the Forest Practices Code to establish resource management zone objectives and landscape unit objectives. Under the proposed new forest management regime, the Minister of SRM will have authority under the Land Act to establish land use objectives, including objectives for UWR where appropriate, to support the FRPA. Whereas other

agencies' policies and activities must be constrained within provincial policy resource impact limits, MSRM, through stakeholder processes and economic and ecological analyses, will establish the social balance for land and resource use. In this respect, MSRM may establish or amend objectives, including objectives for wildlife habitat, that are equivalent to, above, or below current policy limits for timber supply impacts.

C. TYPES OF UWR AND OBJECTIVES

Three types of UWR and objectives are recognized and will be established according to the accompanying Procedures Manual for Establishing Ungulate Winter Ranges and Objectives, and according to the process and dispute resolution provisions below.

Type 1: ***UWR and objectives that have been identified and incorporated in TSR1 and/or TSR2 and were:***
(a) identified in a wildlife management plan or strategy approved before October 15, 1998, or
(b) mapped before April, 1998 but not included in a wildlife management plan or strategy, or
(c) included in TSR1 or TSR2 before April, 1998 but not mapped.

In accordance with the May 11, 2000 Memorandum of Understanding on Confirmation and Establishment of Ungulate Winter Ranges Previously Included in Timber Supply Reviews, MWLAP Environmental Stewardship Regional Managers will seek to establish Type 1 UWR and objectives up to the maximum levels of timber supply constraints (land base deductions or forest cover requirements) identified in TSR1, and in TSR2 where UWR allowances have been identified above and beyond the levels in TSR1. Where boundaries and objectives have not previously been refined and made spatially explicit, that will now be done. If further analysis to confirm or vary Type 1 UWR indicates that TSR1 and/or TSR2 allowances are exceeded, then establishment of this UWR will proceed as Type 3. Similarly, UWRs that were considered part of the inoperable or non-contributing land base at the time of TSR1 or TSR2, but now have timber supply impacts or significant operational impacts due to changes in operability, will be addressed as Type 3.

Type 2: ***UWR and objectives identified in Cabinet-approved strategic land use plans (e.g. LRMPs and regional plans) where:***
(a) UWR are specified by spatially explicit units that have been incorporated into TSR1 and/or TSR2, or where:
(b) UWR allowances have not been incorporated into TSR1 and/or TSR2 due to lack of specificity and spatially but are expected to fall within approved land use plan impact levels.

Environmental Stewardship Regional Managers will seek to establish UWR and objectives consistent with UWR and objectives and map boundaries from existing, Cabinet-approved strategic land use plans (SLUPs) or Higher Level Plans. Where necessary, objectives from SLUPs will be refined and made spatially explicit, while continuing to be consistent with the SLUP. New analyses of timber supply implications may be required to demonstrate that spatially explicit objectives remain consistent with the intended impacts of the SLUP. If further analysis to confirm or vary Type 2 UWR indicates that TSR1 and/or TSR2 allowances are exceeded, then establishment of this UWR will proceed as Type 3.

Type 3: ***New UWR and objectives that are identified by MWLAP, licensees or other parties, as necessary for the winter survival of ungulates.***
Where there is a biological need beyond that accommodated by TSR1 and/or TSR2 (Type 1, above), or beyond UWR allowances in Cabinet-approved SLUPs (Type 2, above) new UWR may be proposed by Environmental Stewardship Regional Managers. Proposals will require a detailed rationale describing the biological need, the proposed amount, distribution, and locations of the UWR; and why allowances in TSR1 and/or TSR2 or Cabinet-approved SLUPs are insufficient to adequately address requirements for wintering ungulates. Proposals must incorporate information from MOF and forest licensees on timber and livestock forage supply and operational implications, and where land use objectives have already been approved, information on consistency with those objectives. Wherever possible, Type 3 proposals for all areas and ungulate species within a district will be presented together in order to facilitate timber supply analysis.

If further analysis of Type 1 or Type 2 UWR indicates that TSR1 and/or TSR2 allowances are exceeded, then establishment of these UWR will proceed as Type 3. Similarly, UWRs that were considered part of the inoperable

or non-contributing land base at the time of TSR1, but that now have timber supply impacts or significant operational impacts due to changes in operability, will be addressed as Type 3.

Establishment of UWR: T	... of UWR and links to legislation, policy, and ministry roles and responsibilities		
Type of UWR	**Origin of UWR**	**Provincial Policy**	**Ministry Roles and Responsibilities (abbreviated – see MOU for details)**
1(a)	UWR identified by a wildlife management plan or strategy approved before October 15, 1998 (OPR (c))	UWR and objectives have been identified and incorporated into TSR1 and/or TSR2 allowances. Where necessary objectives will be refined and made spatially explicit.	1. MWLAP prepares UWR and objectives 2. MOF provides operational and timber/forage supply implications 3. MWLAP presents UWR information package to IAMC as information for consideration 4. MWLAP establishes UWR and objectives consistent with TSR1 and/or TSR2 allowances for UWR
1(b)	UWR mapped before April, 1998 but not included in a wildlife management plan or strategy (OPR (b))		
1(c)	UWR included in TSR1 or TSR2 before April, 1998 but not mapped (OPR (b))		
2(a)	UWR and objectives identified in Cabinet-approved strategic land use plans (e.g. LRMPs and regional plans) that have spatially explicit units and are incorporated into TSR1 and/or TSR2 allowances.	UWR and objectives have been identified and incorporated into TSR1 and/or TSR2 allowances.	1. MWLAP prepares UWR and objectives consistent with SLUP direction. 2. MOF confirms consistency with SLUP TSR provisions. 3. MSRM confirms consistency with SLUP, integration with other objectives. 4. MWLAP presents UWR information package to IAMC as information for consideration. 5. MWLAP or MSRM establish UWR and objectives (flexibility)
2(b)	UWR and objectives identified in Cabinet-approved strategic land use plans (e.g. LRMPs and regional plans where timber supply impacts have not been incorporated into TSR1 and/or TSR2 due to lack of specificity and spatiality.	UWR and objectives may not have been incorporated into TSR1 and/or TSR2 due to lack of specificity and spatiality. TSR budget will be confirmed and/or negotiated.	1. MWLAP prepares UWR and objectives consistent with SLUP direction. 2. MOF provides operational and timber/forage supply implications. 3. MSRM confirms consistency with SLUP, integration with other objectives, and acceptable level of impacts. 4. MWLAP presents UWR information package to IAMC as information for consideration. 5. MWLAP or MSRM establish UWR and objectives (flexibility)
3	New UWR and objectives that are identified by MWLAP, licensees or other parties, as necessary for the winter survival of ungulates.	Biological need for new UWR may be beyond that accommodated by previous TSRs, so TSR budget will need to be decided.	1. MWLAP prepares proposal with detailed rationale describing biological need, why TSR1 and/or TSR2 allowances are insufficient, etc. 2. MOF provides operational and timber/forage supply implications. 3. MWLAP presents UWR information package to IAMC as information for consideration. 4. MSRM determines acceptable levels of impacts or determines whether senior government decision is needed. 5. MWLAP or MSRM establish UWR and objectives (flexibility)

D. SCOPE AND TIMING

- The ministries agree to work together to establish UWR and objectives within the limits of available resources. Where lack of resources (staff or funds) present barriers to UWR confirmation and establishment, ministries will cooperate to document the shortfall and propose solutions that will allow establishment of UWR and objectives to proceed. This may include the initiation of timber and/or forage supply analysis from any of the three agencies and funding from outside the MOF budget allocation for timber and forage supply analysis.

- Where UWR proposals are easily shown to be consistent with UWR allowances in TSR1 or 2, or with a strategic land use plan and accompanying policy, the three ministries may agree to forego any further analysis of timber supply impacts.

- MSRM commits to developing a work plan for each region to address the establishment of a fully integrated suite of legal objectives to support the FRPA. Eventually, all UWR and objectives will be part of an integrated suite of land use objectives which balance economic, social and environmental values, consistent with approved strategic land use plans.

- MWLAP commits to developing and maintaining a Status Report on all UWR in the Province. This Status Report will assign Type 1, 2, or 3 to each UWR proposal on a preliminary basis which may need to be confirmed by further analysis.

- Type 1 UWR: Currently there is no change to the October 15, 2003 deadline for confirming UWR and objectives approved before October 15, 1998 (see Type 1(a) above). It is expected that this deadline will no longer exist in the FRPA regulations after June 2003. However, orderly establishment of UWR and objectives is expected to continue through the two-year transition period of the FRPA. Along with the work to expedite the establishment of all UWR and objectives, there will be a focus on confirming the highest priority Type 1 UWR and objectives.

- Expiry of Type 1(a) UWR which have not been confirmed by the October 15, 2003 deadline means that they will have no legal effect, however, this does not in any way affect the ability of the statutory decision maker to establish new UWR and objectives in the subject area after the October 15, 2003 expiry date.

- Type 2 UWR: UWR and objectives will be consistent with existing Cabinet-approved strategic land use plans and accompanying policy (e.g., the Cariboo-Chilcotin and Kootenay Boundary Higher Level Plan implementation policies). Where objectives are proposed by MWLAP that differ from the objectives in approved land use plans there shall be a commitment to honour the implementation and monitoring Terms of Reference of the land use plans with respect to amending approved strategic land use plan objectives. In all instances there will be consultation with the respective land use plan Implementation and Monitoring Committee (IMC) prior to the statutory decision maker considering the UWR and objectives for approval.

E. THE ROLE OF THE IAMC AND AGENCIES IN PROCESS, AND DISPUTE RESOLUTION

- A corporate and cooperative approach is desirable for establishing UWR and objectives, and where necessary this will be coordinated across agencies at the Inter-Agency Management Committee (IAMC) level - as directed/influenced by the IAMC Terms of Reference. The IAMC may establish a subcommittee of appropriate agencies, including the MWLAP Environmental Stewardship Regional Manager, to address all considerations and issues related to UWR. All proposals for UWR and objectives will be presented to the IAMC or subcommittee for information and consideration prior to these proposals being presented to the statutory decision maker for approval. Where agreement is not achievable between agencies through discussion at the IAMC or subcommittee, the dispute resolution process (below) will be followed.

- The role of the IAMC initially will be to review proposals for UWR and objectives for consistency with existing agreements (including approved strategic land use plans) and identify any additional options for reconciliation within existing legislative and policy direction. In addition, the IAMC shall highlight the known environmental, social and economic risks associated with the proposals, as identified by the agencies.

- For Type 1 UWR and objectives, associated timber impact allowances will continue to be recognized. In this respect, Type 1 UWR and objectives will be presented to the IAMC as information, but will not be renegotiated unless further analysis to confirm or vary Type 1 UWR indicates that TSR1 and/or TSR2 allowances are exceeded.

- For Types 2 and 3 UWR and objectives, the IAMC will coordinate the review of these UWR for consistency with existing strategic land use plans and to ensure that timber and forage supply and operational implications of these UWR are documented for consideration as part of the integrated planning processes coordinated by MSRM. Prior to proposals for Type 2 and 3 UWR and objectives being submitted to the statutory decision

maker for approval, the Environmental Stewardship Regional Manager will document comments, information and issues raised by the IAMC.

- The process for resolving disputes concerning the development and establishment of UWR and objectives will depend on the type of UWR and objectives.
    - For UWR and objectives that fall within approved policy limits, and where there is no dispute regarding level of impact, the Environmental Stewardship Regional Manager (ESRM) will collaborate with the IAMC in describing points of departure and options for solution. The ESRM will provide this information to the MWLAP Deputy Minister who will resolve the dispute.
    - For UWR and objectives that fall outside approved policy limits, and where there is no dispute regarding level of impact, the Environmental Stewardship Regional Manager (ESRM) will collaborate with the IAMC in describing points of departure and options for solution. The ESRM will provide this information to the MSRM Regional Director who will resolve the dispute.
    - For UWR and objectives where there is a dispute regarding the level of impacts, the Environmental Stewardship Regional Manager (ESRM) will collaborate with the IAMC in describing points of departure and options for solution. The ESRM will provide this information to the Joint Steering Committee and, if necessary, the Deputies' Committee on Natural Resources and the Economy, who will resolve the dispute.

F. DEVELOPMENT OF LEGAL OBJECTIVES

- The Environmental Stewardship Regional Managers will be responsible for writing legal objectives associated with all three types of UWR. The level of detail of objectives is expected to be consistent with current guidance for writing resource management objectives, and any further guidance being developed by MSRM in consultation with the Forest Stewardship Working Group (FSWG). Generally, resource objectives are statements of desired future condition that apply to specific geographic areas and are measurable. (Note: the FSWG is an advisory group of forest industry and government, set up at the request of the Premier).

- Environmental Stewardship Regional Managers will be accountable for ensuring that existing policy is applied in preparation of UWR proposals. They will be responsible for setting the biological rationale and management goals and objectives for UWR within their regions, consistent with current land use decisions and direction. They will document the proposed amount, distribution, and locations of the proposed UWR and will ensure that timber and forage supply and operational implications of UWR establishment are documented for consideration by the appropriate statutory decision maker. Information demonstrating consistency with policy must accompany each proposal.

- Environmental Stewardship Regional Managers will also be responsible for leading the formal review and comment for all proposed UWR and objectives with agencies (MOF, MSRM, MEM), First Nations, and affected parties, and for ensuring that concerns and issues are documented.

- It is expected that agencies will be flexible in legally establishing UWR and objectives. Type 1 UWR and objectives will generally be established by MWLAP. The intent for Type 2 and 3 UWR and objectives is to ensure balanced objectives for land and resource management, within the context of existing SLUPs and HLPs, or within a sustainable resource planning process coordinated by MSRM, wherever possible. The IAMC will discuss whether it is most appropriate for MWLAP or MSRM to legally establish Type 2 and 3 UWR and objectives.

- Establishment of UWR and objectives will be coordinated and integrated with the establishment of other legal objectives (e.g., old growth management areas, wildlife habitat areas) wherever possible. However, based on a risk assessment, MWLAP may determine that establishment of UWR and objectives is required prior to the establishment of other land use objectives in some areas. In other areas, establishment of UWR and objectives may be deferred. Options for establishment or deferral of objectives will be discussed between agencies and affected parties, and will be based on the level of risk.

- Where UWR and objectives precede other land use objectives it is recognized that UWR and objectives may require amending at a later date. Amendments to UWR and objectives will be carried out within the same formal review and comment process used for establishing UWR, and will include assessment of biological implications by MWLAP and assessment of timber and forage supply implications by MOF. Minor amendments and/or variances to UWR and objectives will be carried out by the statutory decision maker or delegate responsible for initial establishment of the UWR and objectives. Major amendments to UWR and objectives that fall outside approved policy limits will proceed as Type 3 UWR and objectives.

Original signed by:

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Jon O'Riordan, Deputy Minister, MSRM Date

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Gord Macatee, Deputy Minister, WLAP Date

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Doug Konkin, Deputy Minister, MOF Date